

CA20N
MA200
- 7006

Government
Publications



Citizens' Guide

Subdivisions



In a series

4

Introduction

Land use planning affects almost every aspect of life in Ontario. It helps decide where in our communities homes and factories should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will grow and develop and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interests of individual property owners with the wider interests and objectives of the whole community.

Good planning leads to orderly growth and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

But often we don't see how it affects our lives and property each day. And it often seems confusing.

This series of Citizens' Guides has been prepared to help you understand how the land use planning process works in Ontario. They are intended to give general information only and are not an interpretation of the Planning Act or any other act. You should refer to the legislation for specific requirements and procedures. The titles of the guides are:

1. The Planning Act
2. Official Plans
3. Zoning By-laws
4. Subdivisions
5. Land Severances
6. Ontario Municipal Board
7. Northern Ontario
8. Building Permits
9. One-Window Provincial Planning Service/
Municipal Plan Review
10. Making Mediation Work For You

What is a subdivision?

When you divide a piece of land into two or more parcels in order to sell one or more, you are subdividing property, and the provisions of the Planning Act come into play.

To subdivide land, you need approval of a plan of subdivision from the Minister of Municipal Affairs and Housing or a municipality that has been assigned or delegated the minister's approval powers.

Subdivision approval ensures that:

- the land is suitable for its proposed new use
- the proposal conforms to the official plan in your community, as well as to provincial legislation and policies
- you, your neighbours and your community are protected from developments which are inappropriate or may put an undue strain on community facilities, services or finances

Problems can result when large tracts of land are split into building lots without the benefit of a formal approval process. People have found out, usually too late, that the lots they have purchased are not on a registered plan. It may be that the water supply is unusable or the access road is not plowed or maintained. Other purchasers have found out that the ownership or title to their property has been in doubt, making it difficult to sell.

If your proposal involves creating only a lot or two, you may seek approval for a "land severance" instead. For more details, see Land Severances, No. 5 in the series.

Who is the approval authority for plans of subdivision ?

For all regional/district municipalities, certain counties in southern Ontario and towns/cities that do not form part of a county for municipal purposes, the councils are the approval authority for draft plans of subdivision. Upper-tier municipalities – counties, regional or district municipalities – may further delegate the approval authority to the local municipalities.

In all other areas, the minister is the approval authority but may delegate his/her approval authority to municipalities, municipal planning authorities, or planning boards in northern Ontario.

To determine the approval authority in your area, contact your municipal or planning board office.

What is a registered plan of subdivision?

A registered plan of subdivision is a legal document that shows:

- the exact surveyed boundaries and dimensions of lots on which houses or buildings are to be built
- the location, width and names of streets
- the sites of any schools or parks

The plan does not show specific building locations; these are set out in the zoning by-law and site plan approval. (See Zoning By-Laws, No. 3 in the series.)

The plan of subdivision must be:

- surveyed by an Ontario land surveyor
- in general conformity with the municipal official plan and with any county, regional or district plan as well as provincial policies
- approved by the proper authority
- registered in the local land registry system

A registered plan of subdivision creates new, separate parcels of land and can be legally used for the sale of lots. It should not be confused with “compiled plans” or “reference plans” which are used simply to describe parcels of land.

What is the process for subdividing?

If you are thinking about subdividing your property, discuss your proposal first with local municipal staff. They can tell you what information you will need to provide and whether the local official plan and/or zoning by-law will have to be amended before your subdivision can be allowed.

Subdivision applications are made to the Minister of Municipal Affairs and Housing or directly to the municipality that has been given the approval power. You may be charged a fee for processing the application. To find out what the processing fee is in your area, contact the appropriate approval authority. Municipal staff will tell you about the approval authority in your area.

As an applicant, you are required to fill out a subdivision application form provided by the approval authority – the minister or the municipality.

A typical application form contains both the information which is prescribed by minister’s regulation as well as other additional information which the approval authority may require about the draft plan of subdivision. The more information provided, the less likely delays will occur in the review.

You should be aware that if you do not provide all the information prescribed by minister’s regulation, the approval authority may refuse to accept or to further consider your application and the 90-day time frame for making a decision does not begin until all the prescribed information is received. You are encouraged to contact the appropriate approval authority if you need help in assessing what information is required.

The approval authority must give notice of application and hold a public meeting before a decision is made. Notice of the public meeting is given at least 14 days in advance, usually through local newspapers or by mail. Anyone present at the meeting has a right to speak about the proposal.

The approval authority may consult with agencies, boards, authorities or commissions before making a decision.

How are applications for subdivision evaluated?

In considering a plan of subdivision, the approval authority evaluates the merits of the proposal against criteria such as:

- conformity with the official plan and compatibility with adjacent uses of land
- compliance with local zoning by-laws
- suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created
- adequacy of vehicular access, water supply, sewage disposal
- the need to ensure protection from potential flooding

The approval authority shall have regard to the Provincial Policy Statement when making a decision.

The Provincial Policy Statement contains clear, overall policy directions on matters of provincial interest related to land use planning and development. The “shall have regard to” rule means that the approval authority is obliged to consider the application of a specific policy statement when carrying out its planning responsibility. It is expected that the approval authority will implement the Provincial Policy Statement in the context of other planning objectives and local circumstances.

(See The Planning Act, No. 1 in the series, and the Provincial Policy Statement. Both may be obtained through the government offices listed at the end of this guide.)

What is a draft approval?

Having considered your application, the approval authority may either “draft approve” or refuse your subdivision proposal.

The approval authority must provide a written notice of its decision to the applicant and each person or public body requesting to be notified of a decision within 15 days of its decision. When a notice of decision is given, a 20-day appeal period follows.

If your application is draft approved, you will be advised of any conditions to be met in order to obtain final approval and registration. Conditions of draft approval may include: road widenings, the naming of streets, parkland requirements, rezoning of the area to reflect the new uses in the subdivision, and any other municipal requirements. In addition, draft approval may also include a lapsing provision which establishes a time frame within which the conditions must be met or the draft approval will lapse.

In most cases, the developer may be required to sign a subdivision agreement with the municipality to ensure that certain services such as sidewalks and roads are provided after the plan has been registered.

Draft approval amounts to a commitment to go ahead with the subdivision, once all the conditions of draft approval have been met. Lots may be offered for sale after draft approval, but can be sold only after the plan of subdivision has been registered.

How can you get involved?

If you are concerned about a draft plan of subdivision that may affect you:

- find out as much as possible about the draft plan
- go to the public meeting and give your opinions
- discuss your concerns with the approval authority
- write the approval authority

If the approval authority knows about your concerns early in the process, it can try to take them into account before making a decision on the draft plan of subdivision.

What rights of appeal do you have?

Appeals to the Ontario Municipal Board (OMB) can be made in four different ways:

1. Any person or public body may appeal an approval authority's decision, conditions and/or lapsing provision within 20 days of the notice of decision being given.
2. The applicant or any public body may appeal conditions of approval at any time before final approval of the plan of subdivision.
3. The applicant may appeal if no decision is made within 90 days from the date of receipt by the approval authority of the application containing the prescribed information.
4. Any person or public body may appeal any changed conditions imposed by the approval authority within 20 days after the notice of changed conditions has been given.

Appeals must be filed with the approval authority, accompanied by reasons for the appeal and the fee required by the OMB. Contact the approval authority for more information.

The OMB is an independent administrative tribunal responsible for hearing appeals and deciding on a variety of contentious municipal matters. (See the Ontario Municipal Board, No. 6 in the series.)

What are the powers of the Ontario Municipal Board?

When a decision is appealed, the OMB will hold a hearing where you will have the chance to present your case. The OMB can make any decision that the approval authority could have made on the application.

The OMB also has the power to dismiss an appeal without holding a hearing. (See the Ontario Municipal Board, No. 6 in the series.)

Appealing a decision to the OMB is a serious matter. It can take considerable time, effort and in some cases, money, for everyone involved. A hearing may last for a few hours if the matter is quite simple, but for more complicated matters a hearing can last for several days or even weeks.

The OMB will make a decision based on the facts presented at a hearing.

When can a subdivision be registered?

When all conditions of the draft approval have been met, final approval is given and the plan of subdivision is registered in the provincial land titles or registry system. The developer may then go ahead with the sale of lots in the subdivision.

You should be aware that considerable time may pass between draft approval and actual registration of the plan. However, the approval authority has the power to provide that draft approval will lapse after three years. It also has the power to give a further extension of draft approval.

When must services be provided?

Although many services for new subdivisions are not provided until well after registration, most municipalities insist that they be in place before new residents move into their new home. The applicant may be required to sign a detailed subdivision agreement, which is sometimes registered on the title of the property and legally binds future owners to its conditions.

Are condominiums a form of subdivision?

Yes. Condominiums are a form of property ownership in which title to a unit, such as an individual apartment in a high-rise building, is held by an individual together with a share of the rest of the property, which is common to all of the owners.

Condominiums can involve a brand new development, or an existing rental project which is converted to condominium ownership. They can apply to any type of residential building as well as commercial and industrial areas. Vacant land is not eligible.

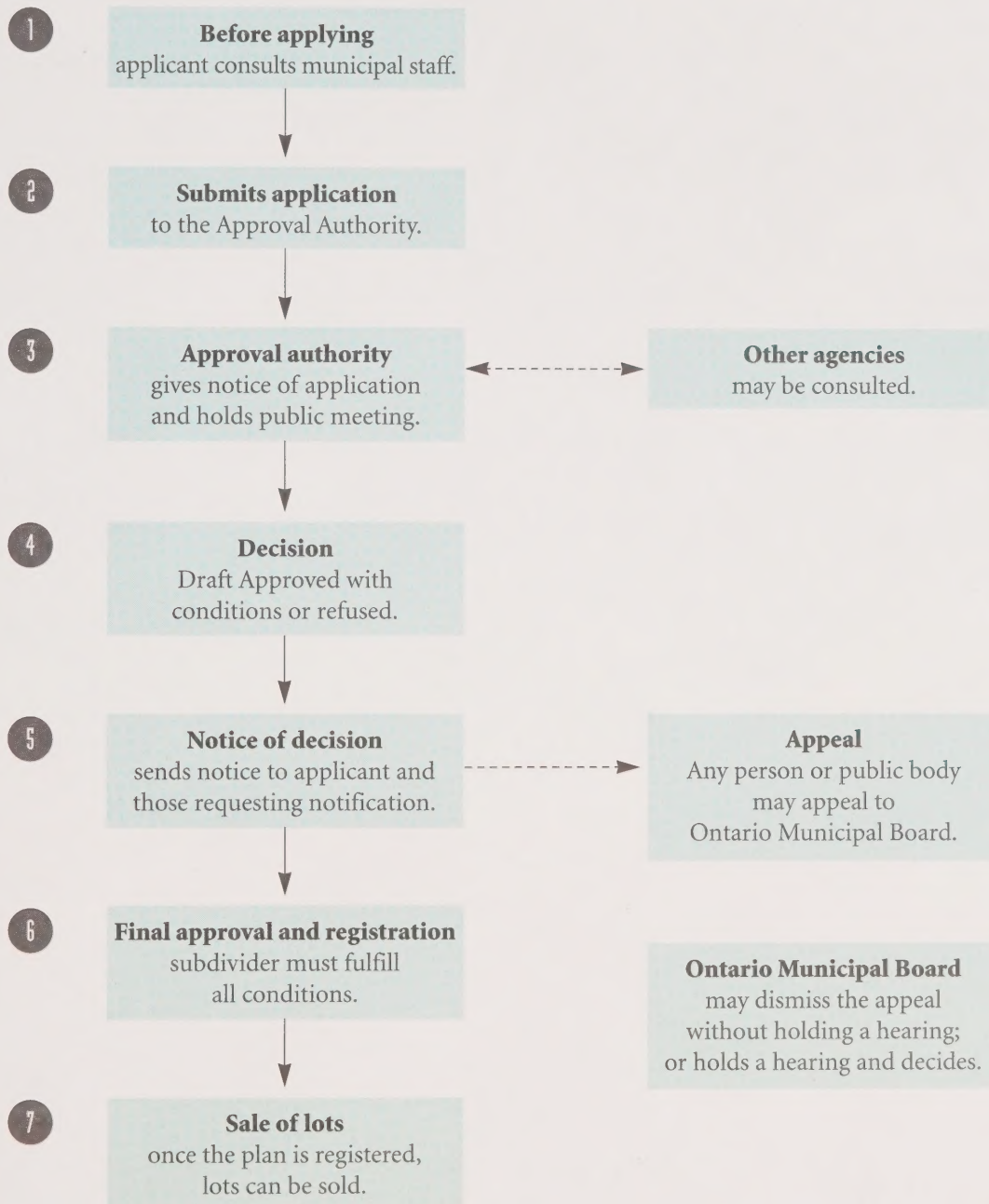
A condominium plan is like a plan of subdivision in that it is a way of dividing property. Similarly, plans of condominium must be approved by an approval authority.

Applications for draft plans of condominium are not subject to the requirements of giving notice of application and holding a public meeting. However, the approval authority is still required to give a notice of decision and the 20-day appeal period following the giving of the notice of decision applies.

Condominium conversions in a number of municipalities are governed by official plan policies dealing with the local rental vacancy rate, as well as other matters.

Subdivisions

The Subdivision Process



How can you find out more?

For more information about land use planning in your community or for copies of the Citizens' Guides, contact your municipal clerk or planning department, or your nearest Ministry of Municipal Affairs and Housing office:

Provincial Planning Services Branch

(416) 585-6014

Toll Free : 1-800-935-0696

Fax: (416) 585-4245 or 585-4006

Planning Policy Branch

(416) 585-6235

Fax: (416) 585-6870

Regional Operations Branch - Toronto

(416) 585-7296

FAX: (416) 585-7292

Eastern - Kingston

(613) 548-4304

Toll Free : 1-800-267-9438

FAX: (613) 548-6822

Southwestern - London

(519) 673-1611

Toll Free : 1-800-265-4736

FAX: (519) 661-1677

Northeastern - Sudbury

(705) 564-0120

Toll Free : 1-800-461-1193

FAX: (705) 564-6863

Northwestern - Thunder Bay

(807) 475-1651

Toll Free : 1-800-465-5027

FAX: (807) 475-1196

Central - Toronto

(416) 327-0017

Toll Free : 1-800-668-0230

FAX: (416) 327-0980

Copies of the Guides may also be obtained from
Publications Ontario (416) 326-5300 or
1-800-668-9938

Visit the Ministry's Internet site at:
www.mmah.gov.on.ca



ISBN 0-7778-6199-2

© Queen's Printer for Ontario, 1997

Disponible en français

Subdivisions